DRN-3712595

The complaint

Miss D complains that Everyday Lending Limited trading as Everyday Loans irresponsibly lent her money on high cost loans she couldn't afford to repay.

What happened

Everyday provided Miss D with the following loans:

	Date of loan	Amount	Repayment period	Monthly instalments	Date repaid
Loan 1	31/7/2018	£1,000	18 months	£114	28/6/2019
Loan 2	28/6/2019	£3,100	36 months	£249	live

Miss D repaid the balance of the first loan with the second loan. She got into difficulties making the payments for the second loan and had to arrange a smaller monthly payment. She complained to Everyday that it had lent to her irresponsibly. She has provided copies of her bank statements around the time of the applications for both loans.

Everyday said it carried out all necessary eligibility checks, including verifying Miss D's income, obtaining credit reports, and checking recent bank statements for both loans. It assessed that both loans were affordable.

On referral to the Financial Ombudsman, our adjudicator said that for both loans Everyday's checks had shown that Miss D was spending a substantial proportion of her income in credit debts. So she said that the loans were unaffordable.

Everyday accepted that the second loan shouldn't have been given. But it maintained its view that the first loan was affordable, and that Miss D had sufficient monthly income to meet the repayments.

The matter has been passed to me for further consideration

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - on our website.

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Everyday complete reasonable and proportionate checks to satisfy itself that Miss D would be able to repay the loans in a sustainable way?

- If not, would those checks have shown that Miss D would have been able to do so?

The rules and regulations in place required Everyday to carry out a reasonable and proportionate assessment of Miss D's ability to make the repayments under the agreements. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Everyday had to think about whether repaying the loans would be sustainable. In practice this meant that Everyday had to ensure that making the repayments on the loans wouldn't cause Miss D undue difficulty or significant adverse consequences. That means she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.

In other words, it wasn't enough for Everyday to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Miss D**.** Checks also had to be "proportionate" to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications. I think that such a check ought generally to have been *more* thorough:

- The *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income).

- The *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income).

- The *greater* the number and frequency of loans, and the longer the period during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

loan 1

The credit report for Miss D obtained at the time of the application for this loan showed that she had three loans, and two mail order accounts, with total repayments assessed by my calculations at around £252 a month. These repayments represented about 31% of her monthly income of £1,186. As she was on a relatively low income, I think that was too high.

Miss D was supposed to be paying off one loan with a balance of £1,101 on it for which she had been paying around £122 a month. If Everyday had arranged payment of the bulk of that loan Miss D should have been able to afford the new loan. But as it didn't do that and I've seen no evidence from Miss D's bank statements that she repaid the loan on her record, I don't think the loan was affordable.

I've considered the calculation that Everyday did of her monthly disposable income – this came to about £218. But it's not just pounds and pence affordability that we look at. The indications were that she had been struggling with payday loans and had the main loan been paid off she might have just been able to afford the Everyday loan. As it is it became just another loan to be added to the payday loans, and as it transpired she continued borrowing by the time she applied for the second loan. So I don't think that Everyday made a fair lending decision.

loan 2

Everyday accepted that this loan was irresponsibly lent. I think that was a fair response. I'll add the repayment of interest and fees in respect of this loan to my decision below.

Putting things right

Miss D has had the capital payment in respect of the loans, so it's fair that she should repay this. So far as the loans are concerned, I think Everyday should refund all interest and charges as follows:

- Remove all interest, fees and charges applied to the loans.

- Treat any payments made by Miss D as payments towards the capital amount.

- If Miss D has paid more than the capital, refund any overpayments to her with 8% simple interest* from the date they were paid to the date of settlement.

- But if there's still an outstanding balance, Everyday should come to a reasonable repayment plan with Miss D

- If Everyday has sold the outstanding debt to a third-party it should do what it can to buy it back - if it can't, it can't deduct any outstanding balance from the redress and it then needs to work with the third-party to bring about the steps above.

- Remove any adverse information about the loans from Miss D's credit file.

*HM Revenue & Customs requires Everyday to deduct tax from this interest. It should give Miss D a certificate showing how much tax it's deducted if she asks for one.

My final decision

I uphold the complaint and require Everyday Lending Limited trading as Everyday Loans to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 25 November 2022.

Ray Lawley
Ombudsman